

EXHIBIT “A”

Electronically Issued
2/15/2022 10:12 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

TRACI BARKER, an individual;

Plaintiff,

vs.

99 CENTS ONLY STORES LLC dba 99 Cents
Only Store #333, a Foreign Limited-Liability
Company; DOES I through XXX; ROE
CORPORATIONS I through XXX, inclusive,

Defendant.

CASE NO.: A-22-848304-C

DEPT. NO.: 4

**NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT
YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS, READ THE
INFORMATION BELOW.**

99 CENTS ONLY STORES LLC dba 99 CENTS ONLY STORE #333

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

- a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
- b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

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CAP & KUDLER
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LAS VEGAS, NEVADA 89102
PHONE: (702) 878-8778
FACSIMILE: (702) 878-8350
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1 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
2 members, commission members and legislators each have 45 days after service of this Summons within
3 which to file an Answer or other responsive pleading to the Complaint.

4 Submitted by:
5 CAP & KUDLER

STEVEN D. GRIERSON
CLERK OF COURT

6 
7 DONALD C. KUDLER, ESQ.
8 Nevada Bar No. 005041
9 3202 West Charleston Blvd.
10 Las Vegas, Nevada 89101
11 Attorney for Plaintiff

By:  2/16/2022
DEPUTY CLERK DATE

Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

Demond Palmer

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Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

CASE NO: A-22-848304-C
Department 4

COMP
CAP & KUDLER
Donald C. Kudler, Esq.
Nevada Bar No. 005041
3202 W. Charleston Blvd.
Las Vegas, NV 89102
(702) 878-8778
(702) 878-9350 - Fax
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

TRACI BARKER, an individual;
Plaintiff,
vs.

CASE NO. :
DEPT. NO.:

99 CENTS ONLY STORES LLC dba 99 Cents
Only Store #333, a Foreign Limited-Liability
Company; DOES I through XXX; ROE
CORPORATIONS I through XXX, inclusive,
Defendant.

COMPLAINT

Plaintiff, TRACI BARKER, by and through her attorney, DONALD C. KUDLER, ESQ.,
of the Law Offices of CAP & KUDLER, for his cause of action against the Defendants, and each
of them, alleges as follows:

CAUSE OF ACTION

1. At all times herein mentioned, Plaintiff, TRACI BARKER, was a resident of Las Vegas, State of Nevada.
2. At all times mentioned herein, Defendant, 99 CENTS ONLY STORES LLC dba 99 Cents Only Store #333, is a Foreign Liberty-Liability Company, duly authorized and qualified to conduct business in the State of Nevada.
3. That at all time mentioned herein, Defendants, ROE CORPORATIONS I through XXX, were corporations fully licensed to do business in the State of Nevada or other Jurisdictions.

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4. The true names and capacities of the Defendants designated herein as DOE or ROE CORPORATIONS are presently unknown to Plaintiff at this time who, therefore, sues said Defendants by such fictitious names and when their true names and capacities are ascertained, Plaintiff will amend her Complaint accordingly to insert same herein.

5. The true names and capacities of the Defendants designated herein as ROE CORPORATIONS I through XXX are presently unknown to Plaintiff at this time who, therefore, sue said Defendants by such fictitious names and when their true names and capacities are ascertained, Plaintiff will amend her Complaint accordingly to insert same herein.

6. At all time mentioned herein, Defendants, 99 CENTS ONLY STORES LLC and ROE CORPORATIONS I through V, and each of them were in possession, owners occupiers and/or in control of 99 Cents Only Store #333 located at 3141 N. Rancho Drive, in Las Vegas, Clark County, Nevada at the time of the subject accident of March 31, 2020.

7. At all time relevant herein, Defendants, ROE CORPORATIONS VI through X (hereinafter collectively referred to as "OPERATORS") and each of them were Corporations responsible for operating 99 Cents Only Store #333, at the time of the subject accident.

8. At all time relevant herein, Defendants, ROE CORPORATIONS XI through XV (hereinafter collectively referred to as "INSTALLERS") were responsible for the installation of 99 Cents Only Store #333, at the time of the subject accident.

9. At all time relevant herein, Defendants, ROE CORPORATIONS XVI through XX (hereinafter collectively referred to as "DESIGNERS") were the designers of 99 Cents Only Store #333, at the time of the subject accident.

10. At all time relevant herein, Defendants ROE CORPORATIONS XXI through XXV (hereinafter collectively referred to as "MANUFACTURES") were the manufacturers of 99 Cents Only Store #333, at the time of the subject accident.

11. At all time relevant herein, Defendants ROE CORPORATIONS XXVI through XXX (hereinafter collectively referred to as "MAINTAINERS") were responsible for upkeep, care and maintenance of 99 Cents Only Store #333, at the time of the subject accident.

12. At all times mentioned herein, Defendants, and each of them, were in the

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possession and control of certain real property and premises located at 3141 N. Rancho Drive, in Las Vegas, Clark County, Nevada, said premises commonly known as 99 Cents Only Store #333.

13. That on or about the 31st day of March, 2020 the Plaintiff was upon said real property and premises, as hereinabove referred to, at the invitation of and for business benefit to the Defendants, and each of them.

14. At said time and place, the Defendants, and each of them, negligently maintained and controlled said real property and premises and, further, negligently permitted a dangerous condition, not obvious or apparent to the Plaintiff, to exist thereon and further, did:

a. negligently design, manufacture, maintain or install 99 Cents Only Store #333.

b. negligently cause a dangerous condition to exist to wit: liquid substance on the floor causing Plaintiff to slip and fall;

c. negligently allow said dangerous condition to remain in existence, as aforesaid, for an unreasonable length of time;

d. negligently failed to warn the Plaintiff of the presence of said dangerous condition and,

e. negligently allow the liquid substance on the floor in the aisle traveled by the Plaintiff and other business invitees of the Defendants, and each of them, to be in a condition dangerous and unfit for use in that the Defendant permitted the dangerous condition to exist on the floor of the said premises, and, further, negligently failed to reasonably warn or guard the Plaintiff in regard thereto.

15. As a proximate result of the aforesaid negligence of the Defendants, and each of them, Plaintiff, TRACI BARKER, did slip and fall on the said dangerous condition on the premises of the Defendants, and each of them, thereby causing the Plaintiff to hit and strike her left shoulder, left arm, left wrist, numbness in left arm, hip, neck, back and thereby sustaining the injuries and damages as hereinafter set forth.

16. Prior to the fall of the Plaintiff, the dangerous condition of said premises was known by, or should have been known by, the Defendants, and each of them, in the exercise of reasonable care.

DAMAGES

17. That by reason of the premises and as a direct and proximate result thereof, Plaintiff, TRACI BARKER, sustained injuries to her left wrist, left arm, left shoulder, hip, neck, back, bodily limbs, organs and systems all or some of which conditions may be permanent and disabling in nature, all to her general damage in a sum in excess of \$15,000.00.

18. That by reason of the premises and as a direct and proximate result of the aforementioned negligence of the Defendants, and each of them, Plaintiff, TRACI BARKER, was required to and did receive medical and other treatment for her injuries received in an expense all to her damage in a sum in excess of \$15,000.00. That said services, care and treatment are continuing and shall continue in the future, all to her damage in a presently unascertainable amount, and Plaintiff will amend her Complaint accordingly when same shall be ascertained.

19. That prior to the injuries complained of herein, Plaintiff, TRACI BARKER, was an able-bodied person readily and gainfully employed and physically capable of engaging in all other activities for which she was otherwise suited.

20. That by reason of the premises and as a direct and proximate result thereof, Plaintiff, TRACI BARKER, has been required to and did lose time from her employment, continues to, and shall continue to be limited in her activities and occupations which has caused and shall continue to cause the Plaintiff a loss of earnings and earning capacity, to her damage in a presently unascertainable amount, in this regard, Plaintiff asks leave of this Court to insert said amount when the same shall be fully ascertained.

21. As a direct and proximate result of the negligence of Defendants, Plaintiff, TRACI BARKER, incurred medical and related expenses, all to the damage of Plaintiff in an amount in excess of \$15,000.00.

22. As a further direct and proximate result of the negligence of Defendants, Plaintiff, TRACI BARKER, has suffered and will suffer disabilities, disfigurement, pain and suffering, future surgical procedures, and loss of enjoyment of life, all to the damage of Plaintiff in the amount in excess of \$15,000.00.

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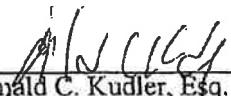
23. As a further direct and proximate result of the negligence of Defendants, Plaintiff, TRACI BARKER, incurred, and will continue to incur, attorney's fees and court costs in an amount to be proven at trial.

WHEREFORE, Plaintiff TRACI BARKER, expressly reserving her right to amend her Complaint prior to or at the time of trial of this action to insert those items of damage not yet fully ascertainable, prays judgment as follows:

1. For general damages sustained by Plaintiff, TRACI BARKER, in an amount in excess of \$15,000.00;
2. For costs of medical care and treatment and other expenses incurred thereto when same are fully ascertained.
3. For lost wages incurred when same have been fully ascertained;
4. For costs of suit incurred herein; and
5. For such other and further relief as the Court may deem just and proper in the premises.

Dated this 15th day of February, 2022.

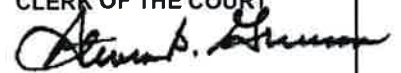
CAP & KUDLER


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Nevada Bar No. 005041
3202 W. Charleston Blvd.
Las Vegas, NV 89102
Attorney for Plaintiff

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Steven D. Grierson
CLERK OF THE COURT



1 **ANS**
2 **LEW BRANDON, JR., ESQ.**
3 Nevada Bar No. 5880
4 **JEFFREY J. ORR, ESQ.**
5 Nevada Bar No. 7854
6 **HOMERO GONZALEZ, ESQ.**
7 Nevada Bar No. 15231
8 **BRANDON | SMERBER LAW FIRM**
9 139 E. Warm Springs Road
10 Las Vegas, Nevada 89119
11 (702) 380-0007
12 (702) 380-2964 – *facsimile*
13 l.brandon@bsnv.law
14 j.orr@bsnv.law
15 h.gonzalez@bsnv.law
16 *Attorneys for Defendant,*
17 *99 CENTS ONLY STORES LLC dba*
18 *99 Cents Only Store #333*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 TRACI BARKER, an individual,

15 Plaintiff,

16 vs.

CASE NO.: A-22-848304-C

DEPT. NO.: 4

17
18 99 CENTS ONLY STORES LLC dba
19 99 Cents Only Store #333, a Foreign
20 Limited-Liability Company; DOES I
21 through XXX; ROE
22 CORPORATIONS I through XXX,
23 inclusive,

24 Defendants.

25 **DEFENDANT, 99 CENTS ONLY STORES LLC dba 99 Cents Only Store #333'S**
26 **ANSWER TO PLAINTIFF'S COMPLAINT**

27 COMES NOW, Defendant, 99 CENTS ONLY STORES, LLC, by and through its
28 attorneys, LEW BRANDON, JR., ESQ., JEFFREY J. ORR, ESQ., and HOMERO GONZALEZ,

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T: 702.380.0007 | F: 702.380.2964

BRANDON | SMERBER
LAW FIRM

1 ESQ., of BRANDON | SMERBER LAW FIRM, and hereby answers Plaintiff's Complaint on file
2 herein as follows:

3 1. Answering Paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Plaintiff's Complaint
4 on file herein, Defendant is without sufficient knowledge or information to form a belief as to the
5 truth or falsity of the said allegations and therefore denies same.

6
7 2. Answering Paragraph 2 of Plaintiff's Complaint on file herein, Defendant admits the
8 allegations contained therein.

9 3. Answering Paragraphs 15, 16, 17, 18, 19, 20, 21, 22 and 23 of Plaintiff's Complaint
10 on file herein, Defendant denies the allegations contained therein. Answering Paragraph 14
11 (subsections a, b, c and e) of Plaintiff's Complaint on file herein, Defendant denies the allegations
12 contained therein. Answering Paragraph 14 (subsection d) of Plaintiff's Complaint on file herein,
13 Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity
14 of the said allegations and therefore denies same.

15
16 **AFFIRMATIVE DEFENSES**

17 **FIRST AFFIRMATIVE DEFENSE**

18
19 Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be
20 granted.

21 **SECOND AFFIRMATIVE DEFENSE**

22 Defendant alleges that at the time and place alleged in Plaintiff's Complaint, Plaintiff did
23 not exercise ordinary care, caution or prudence for the protection of herself and any damages
24 complained of by the Plaintiff in her Complaint, were directly or proximately caused or
25 contributed to by the fault, failure to act, carelessness and negligence of Plaintiff.
26
27
28

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THIRD AFFIRMATIVE DEFENSE

Defendant alleges that the Plaintiff assumed whatever risk or hazard existed at the time of this incident, if any there were, and was therefore responsible for the alleged damage suffered and further that the Plaintiff was guilty of negligence of her own acts which caused or contributed to by the fault, failure to act, carelessness or negligence of Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

All the risks and dangers involved in the factual situation described in Plaintiff's Complaint, if any there were, were open, obvious and known to the Plaintiff and by reason thereof, Plaintiff assumed the risks and dangers inherent thereto.

FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that the negligence of the Plaintiff exceeded that of the Defendant, and that the Plaintiff is thereby barred from recovery.

SIXTH AFFIRMATIVE DEFENSE

Pursuant to NRCP 11, as amended: All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend this Answer to allege additional affirmative defenses if subsequent investigation warrants.

SEVENTH AFFIRMATIVE DEFENSE

The damages sustained by Plaintiff, if any, were caused by the acts of third persons who were not agents, servants or employees of this answering Defendant and who were not acting on behalf of this answering Defendant in any manner or form and as such, this Defendant is not liable in any matter to the Plaintiff.

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EIGHTH AFFIRMATIVE DEFENSE

Defendant at all times relevant to the allegations contained in Plaintiff's Complaint, acted with due care and circumspection in the performance of any and all duties imposed on it.

NINTH AFFIRMATIVE DEFENSE

That it has been necessary of the Defendant to employ the services of an attorney to defend the action and a reasonable sum should be allowed Defendant for attorney's fees, together with costs of suit incurred herein.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate her alleged damages, and, to the extent of such failure to mitigate any damages awarded to Plaintiff, should be reduced accordingly.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by applicable statutes of limitations.

TWELFTH AFFIRMATIVE DEFENSE

Defendant objects as to authentication, foundation and genuineness of all of Plaintiff's medical providers and documents listed or presented by Plaintiff.

WHEREFORE, Defendant, 99 CENTS ONLY STORES LLC dba 99 Cents Only Store #333, prays as follows:

1. That Plaintiff take nothing by way of her Complaint on file herein;
2. For reasonable attorney's fees and costs of suit incurred herein;

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1 3. For such other and further relief as the Court may deem just and proper in the premises.

2 DATED this 1st day of March, 2022.

3 **BRANDON | SMERBER LAW FIRM**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **JEFFREY J. ORR, ESQ.**

8 Nevada Bar No. 7854

9 **HOMERO GONZALEZ, ESQ.**

10 Nevada Bar No. 15231

11 139 E. Warm Springs Road

12 Las Vegas, Nevada 89119

13 (702) 384-8424

14 (702) 384-6568 - *facsimile*

15 *Attorneys for Defendant,*

16 *99 CENTS ONLY STORES LLC dba*

17 *99 Cents Only Store #333*

18 **CERTIFICATE OF SERVICE**

19 Pursuant to NRCP 5(b), I hereby certify that on March 1, 2022, I served the foregoing

20 **DEFENDANT 99 CENTS ONLY STORES LLC dba 99 Cents Only Store #333'S ANSWER**

21 **TO PLAINTIFF'S COMPLAINT** through the Court's ECF electronic filing system, upon the

22 following:

23 **CAP & KUDLER**

24 **DONALD C. KUDLER, ESQ.**

25 Nevada Bar No. 005041

26 3202 W. Charleston Blvd.

27 Las Vegas, Nevada 89102

28 (702) 878-8778

(702) 878-9350 – Fax

donaldkudler@capandkudler.com

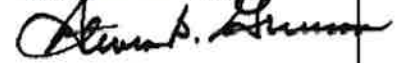
Attorneys for Plaintiff,

TRACI BARKER

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM

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1 **IAFD**

2 **LEW BRANDON, JR., ESQ.**

3 Nevada Bar No. 5880

4 **JEFFREY J. ORR, ESQ.**

5 Nevada Bar No. 7854

6 **HOMERO GONZALEZ, ESQ.**

7 Nevada Bar No. 15231

8 **BRANDON | SMERBER LAW FIRM**

9 139 E. Warm Springs Road

10 Las Vegas, Nevada 89119

11 (702) 380-0007

12 (702) 380-2964 – *facsimile*

13 l.brandon@bsnv.law

14 j.orr@bsnv.law

15 h.gonzalez@bsnv.law

16 *Attorneys for Defendant,*

17 **99 CENTS ONLY STORES LLC dba**

18 **99 Cents Only Store #333**

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 TRACI BARKER, an individual,

15 Plaintiff,

16 vs.

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DEPT. NO.: 4

17 99 CENTS ONLY STORES LLC dba

18 99 Cents Only Store #333, a Foreign

19 Limited-Liability Company; DOES I

20 through XXX; ROE

21 CORPORATIONS I through XXX,

22 inclusive,

23 Defendants.

24 **INITIAL APPEARANCE FEE DISCLOSURE**

25 **(NRS CHAPTER 19)**

26 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
27 parties appearing in the above-entitled action as indicated below:

28 Defendant, 99 CENTS ONLY STORES LLC dba

99 Cents Only Store #333.....

\$223.00

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T: 702.380.0007 | F: 702.380.2964

BRANDON | SMERBER
LAW FIRM

TOTAL REMITTED..... \$223.00

DATED this 1st day of March, 2022.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

JEFFREY J. ORR, ESQ.

Nevada Bar No. 7854

HOMERO GONZALEZ, ESQ.

Nevada Bar No. 15231

139 East Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

99 CENTS ONLY STORES LLC dba

99 Cents Only Store #333

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 1, 2022, I served a true and correct copy of the foregoing **INITIAL APPEARANCE FEE DISCLOSURE (NRS**

CHAPTER 19) through the Court's ECF electronic filing system, upon the following:

CAP & KUDLER

DONALD C. KUDLER, ESQ.

Nevada Bar No. 005041

3202 W. Charleston Blvd.

Las Vegas, Nevada 89102

(702) 878-8778

(702) 878-9350 – Fax

donaldkudler@capandkudler.com

Attorneys for Plaintiff,

TRACI BARKER

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM

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CLERK OF THE COURT



1 **DMJT**

2 **LEW BRANDON, JR., ESQ.**

3 Nevada Bar No. 5880

4 **JEFFREY J. ORR, ESQ.**

5 Nevada Bar No. 7854

6 **HOMERO GONZALEZ, ESQ.**

7 Nevada Bar No. 15231

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14 j.orr@bsnv.law

15 h.gonzalez@bsnv.law

16 Attorneys for Defendant,

17 99 CENTS ONLY STORES LLC dba

18 99 Cents Only Store #333

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 TRACI BARKER, an individual,

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CASE NO.: A-22-848304-C

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18 99 Cents Only Store #333, a Foreign

19 Limited-Liability Company; DOES I

20 through XXX; ROE

21 CORPORATIONS I through XXX,

22 inclusive,

23 Defendants.

24 **DEMAND FOR JURY TRIAL**

25 COMES NOW, Defendant, 99 CENTS ONLY STORES LLC dba 99 Cents Only Store

26 #333, by and through its attorneys of record, LEW BRANDON, JR., ESQ., JEFFREY J. ORR,

27 ESQ., and HOMERO GONZALEZ, ESQ., of the BRANDON | SMERBER LAW FIRM, and

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BRANDON | SMERBER
LAW FIRM

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BRANDON | SMERBER
LAW FIRM

1 hereby demands a Jury Trial in the above-entitled action.

2 DATED this 1st day of March, 2022.

3 **BRANDON | SMERBER LAW FIRM**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **JEFFREY J. ORR, ESQ.**

8 Nevada Bar No. 7854

9 **HOMERO GONZALEZ, ESQ.**

10 Nevada Bar No. 15231

11 139 East Warm Springs Road

12 Las Vegas, Nevada 89119

13 *Attorneys for Defendant,*

14 *99 CENTS ONLY STORES LLC dba*

15 *99 Cents Only Store #333*

16 **CERTIFICATE OF SERVICE**

17 Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 1, 2022, I served a true and
18 correct copy of the foregoing **DEMAND FOR JURY TRIAL** through the Court's ECF electronic
19 filing system, upon the following:

20 **CAP & KUDLER**

21 **DONALD C. KUDLER, ESQ.**

22 Nevada Bar No. 005041

23 3202 W. Charleston Blvd.

24 Las Vegas, Nevada 89102

25 (702) 878-8778

26 (702) 878-9350 – Fax

27 *donaldkudler@capandkudler.com*

28 *Attorneys for Plaintiff,*

TRACI BARKER

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM

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Steven D. Grierson
CLERK OF THE COURT



1 **CSRE**
2 **LEW BRANDON, JR., ESQ.**
3 Nevada Bar No. 5880
4 **JEFFREY J. ORR, ESQ.**
5 Nevada Bar No. 7854
6 **HOMERO GONZALEZ, ESQ.**
7 Nevada Bar No. 15231
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14 j.orr@bsnv.law
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16 *Attorneys for Defendant,*
17 *99 CENTS ONLY STORES LLC dba*
18 *99 Cents Only Store #333*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 TRACI BARKER, an individual,

15 Plaintiff,

16 vs.

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19 99 Cents Only Store #333, a Foreign
20 Limited-Liability Company; DOES I
21 through XXX; ROE
22 CORPORATIONS I through XXX,
23 inclusive,

Defendants.

24 **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING**
25 **PROGRAM**

26 The undersigned parties hereby consent to service of documents by electronic means
27 through the Court's E-filing program on behalf of the following parties: 99 CENTS ONLY
28 STORES LLC dba 99 Cents Only Store #333.

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
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Documents served by electronic means must be transmitted to the following persons at the e-mail addresses listed: l.brandon@bsnv.law; j.orr@bsnv.law; and h.gonzalez@bsnv.law.

It is my understanding that the attachments may be transmitted to the program in any format and will be converted to a PDF file before service is effected.

The undersigned also acknowledges that this Consent does not require service by electronic means unless the serving party elects to do so.

DATED this 1st day of March, 2022.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

JEFFREY J. ORR, ESQ.

Nevada Bar No. 7854

HOMERO GONZALEZ, ESQ.

Nevada Bar No. 15231

139 East Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

99 CENTS ONLY STORES LLC dba

99 Cents Only Store #333

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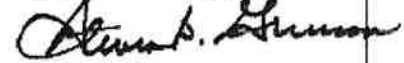
CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 1, 2022, I served a true and correct copy of the foregoing **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING PROGRAM** through the Court's ECF electronic filing system, upon the following:

CAP & KUDLER
DONALD C. KUDLER, ESQ.
Nevada Bar No. 005041
3202 W. Charleston Blvd.
Las Vegas, Nevada 89102
(702) 878-8778
(702) 878-9350 – Fax
donaldkudler@capandkudler.com
Attorneys for Plaintiff,
TRACI BARKER

/s/ Bonita Alexander
An Employee of BRANDON | SMERBER LAW FIRM

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Steven D. Grierson
CLERK OF THE COURT



1 **DSST**
2 **LEW BRANDON, JR., ESQ.**
3 Nevada Bar No. 5880
4 **JEFFREY J. ORR, ESQ.**
5 Nevada Bar No. 7854
6 **HOMERO GONZALEZ, ESQ.**
7 Nevada Bar No. 15231
8 **BRANDON | SMERBER LAW FIRM**
9 139 E. Warm Springs Road
10 Las Vegas, Nevada 89119
11 (702) 380-0007
12 (702) 380-2964 – *facsimile*
13 l.brandon@bsnv.law
14 j.orr@bsnv.law
15 h.gonzalez@bsnv.law
16 *Attorneys for Defendant,*
17 *99 CENTS ONLY STORES LLC dba*
18 *99 Cents Only Store #333*

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BRANDON | SMERBER
LAW FIRM

DISTRICT COURT

CLARK COUNTY, NEVADA

TRACI BARKER, an individual,

Plaintiff,

vs.

CASE NO.: A-22-848304-C

DEPT. NO.: 4

99 CENTS ONLY STORES LLC dba
99 Cents Only Store #333, a Foreign
Limited-Liability Company; DOES I
through XXX; ROE
CORPORATIONS I through XXX,
inclusive,

Defendants.

DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1

The undersigned counsel of record for Defendant, 99 CENTS ONLY STORES LLC,
hereby certifies that to their knowledge, Defendant, 99 CENTS ONLY STORES LLC, is a
limited liability company with no publicly held company owning ten percent (10%) or more of
99 CENTS ONLY STORES LLC.

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1 There are no other known interested parties other than those identified.

2 DATED this 1st day of March, 2022.

3 **BRANDON | SMERBER LAW FIRM**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **JEFFREY J. ORR, ESQ.**

8 Nevada Bar No. 7854

9 **HOMERO GONZALEZ, ESQ.**

10 Nevada Bar No. 15231

11 139 E. Warm Springs Road

12 Las Vegas, Nevada 89119

13 *Attorneys for Defendant,*

14 *99 CENTS ONLY STORES LLC dba*

15 *99 Cents Only Store #333*

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on March 1, 2022, I served a copy of the foregoing **DISCLOSURE**
18 **STATEMENT PURSUANT TO NRCP 7.1** through the Court's ECF electronic filing system,
19 upon the following:

20 **CAP & KUDLER**

21 **DONALD C. KUDLER, ESQ.**

22 Nevada Bar No. 005041

23 3202 W. Charleston Blvd.

24 Las Vegas, Nevada 89102

25 (702) 878-8778

26 (702) 878-9350 – Fax

27 *donaldkudler@capandkudler.com*

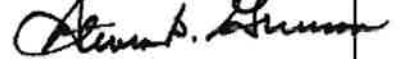
28 *Attorneys for Plaintiff,*

TRACI BARKER

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM

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1 **REQT**
2 **LEW BRANDON, JR., ESQ.**
3 Nevada Bar No. 5880
4 **JEFFREY J. ORR, ESQ.**
5 Nevada Bar No. 7854
6 **HOMERO GONZALEZ, ESQ.**
7 Nevada Bar No. 15231
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13 l.brandon@bsnv.law
14 j.orr@bsnv.law
15 h.gonzalez@bsnv.law
16 *Attorneys for Defendant,*
17 *99 CENTS ONLY STORES LLC dba*
18 *99 Cents Only Store #333*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 TRACI BARKER, an individual,

15 Plaintiff,

16 vs.

CASE NO.: A-22-848304-C

DEPT. NO.: 4

17
18 99 CENTS ONLY STORES LLC dba
19 99 Cents Only Store #333, a Foreign
20 Limited-Liability Company; DOES I
21 through XXX; ROE
22 CORPORATIONS I through XXX,
23 inclusive,

24 Defendants.

25 **NRCP 16.1(a)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND**
26 **DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii)**
27 **REQUEST FOR MEDICAL PROVIDER IDENTITY**

28 Pursuant to NRCP 16.1(a)(1)(C), Defendant 99 CENTS ONLY STORES LLC dba 99
Cents Only Store #333, hereby requests that Plaintiff, TRACI BARKER, provide within thirty
(30) days of this Request, computation of any and all categories of damages claimed by Plaintiff,

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including making available for inspection and copying as under Rule 34, the documents or other evidentiary matter not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

DATED this 1st day of March, 2022.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

JEFFREY J. ORR, ESQ.

Nevada Bar No. 7854

HOMERO GONZALEZ, ESQ.

Nevada Bar No. 15231

139 East Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

99 CENTS ONLY STORES LLC dba

99 Cents Only Store #333

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on March 1, 2022, I served a true and correct copy of the foregoing **NRCP 16.1(a)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii) REQUEST FOR MEDICAL PROVIDER IDENTITY** through the Court's ECF electronic filing system, upon the following:

CAP & KUDLER

DONALD C. KUDLER, ESQ.

Nevada Bar No. 005041

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Las Vegas, Nevada 89102

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Attorneys for Plaintiff,

TRACI BARKER

/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM

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1 **ABREA**
2 **CAP & KUDLER**
3 Donald C. Kudler.
4 Nevada Bar #005041
5 3202 W. Charleston Blvd.
6 Las Vegas, NV 89102
7 (702) 878-8778
8 (702) 878-9350 - Fax
9 Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

9	TRACI BARKER, an individual;)	CASE NO. : A-22-848304-C
10	Plaintiff,)	DEPT. NO.: 4
11	vs.)	
12	99 CENTS ONLY STORES LLC dba 99)	
13	Cents Only Store #333, a Foreign)	
14	Limited-Liability Company; DOES I)	
15	through XXX; ROE CORPORATIONS I)	
16	through XXX, inclusive,)	
17	Defendant.)	

REQUEST FOR EXEMPTION FROM ARBITRATION

18 Plaintiff, TRACI BARKER, hereby requests the above entitled
19 matter be exempted from arbitration pursuant to Nevada
20 Arbitration Rules 3 and 5, as this case:

- 21 1. _____ presents a significant issue of public policy;
- 22 2. X involves an amount in issue in excess of \$50,000;
- 23 3. _____ presents unusual circumstances which constitute
- 24 good cause for removal from the program.

25 A summary of the facts which supports my contention for
26 exemption is as follows:

27 That on or about the 31st day of March, 2020 the Plaintiff,
28 TRACI BARKER was a patron of 99 Cents Only Stores, LLC. As Ms.

1 Barker was coming down an aisle when she slipped and fell from a
2 liquid substance on the floor.

3 Plaintiff, TRACI BARKER, was taken by MedicWest Ambulance to
4 University Medical Center. On the date of the incident she was
5 diagnosed with left arm pain, neurapraxia of left upper
6 extremity, closed displaced spiral fracture of shaft of left
7 humerus. On April 16, 2020 Ms. Barker returned to University
8 Medical Center for surgery. Procedure performed: open reduction,
9 internal fixation, left humeral shaft, left radial nerve
10 neurolysis. Preoperative & postoperative diagnosis: comminuted
11 left proximal humeral shaft fracture, radial nerve palsy.

12 She was seen at Southwest Medical Associates for
13 preoperative clearance. She also suffered nerve Palsy and was
14 unable to use left wrist.

15 Ms. Barker treated with OptumCare Orthopaedics and
16 Spine. She was diagnosed with unspecified fracture of shaft
17 of humerus, left arm, subsequent encounter for fracture with
18 routine healing; left wrist pain and left radial nerve
19 palsy.

20 She treated with Las Vegas Neurology Center. She was
21 diagnosed with left wrist drop, radial neuropathy at spinal
22 groove, neck pain, left humerus fracture, patchy paresthesia
23 over left arm, numbness over the dorsum of left hand. She
24 had a nerve conduction study. The findings are consistent
25 with a left radial neuropathy at the spiral groove most
26 likely related to left humerus fracture.

27 She had physical therapy with ATI Physical Therapy for
28 her left shoulder. She had occupational therapy with ATI

Physical Therapy for numbing/tingling in dorsal aspect of FA and hand; wrist drop.

Plaintiff, TRACI BARKER, suffered the following injuries: left humerus fracture, neck pain, left wrist drop, left wrist pain, left shoulder, bodily limbs, organs and systems as a direct result of this incident.

The following is a list of Plaintiff, TRACI BARKER's medical specials to date:

PROVIDER	TOTAL CHARGES
MedicWest Ambulance, Inc.	\$1,266.60
University Medical Center	\$159,880.95
EMP of Clark UMC (McCourt)	\$1,023.32
Desert Radiology	\$547.06
Southwest Medical Associates	\$940.00
OptumCare Orthopedics & Spine	\$6,248.82
Kinex Medical Company, LLC	\$1,791.05
ATI Physical Therapy (Physical Therapy)	\$6,837.41
ATI Physical Therapy (Occupation Therapy)	\$10,975.61
Ronald J. Knoblock, M.D.	\$233.40
Pioneer Healthcare, Inc.	\$400.01
Las Vegas Neurology Center	\$1,585.00
TOTAL MEDICAL CHARGES	\$191,729.53

Ms. Barker is employed by 7-Eleven as an assistant manager. Due to this incident she missed 120 days from work. His total wage loss is \$1,200.00.

In addition to the medical specials, Plaintiff, TRACI BARKER, has suffered, and will continue to suffer disabilities, disfigurement, pain and suffering, future surgical procedures, and loss of enjoyment of life, as a result of this incident. Ms.

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1 Barker may receive future medical treatment for his injuries. It
2 is anticipated that the costs of treatment, therapy and
3 medication, will exceed the statutory \$50,000 recovery within the
4 mandatory arbitration program.

5 Therefore, counsel requests this matter be exempted from the
6 program.

7 I hereby certify pursuant to N.R.C.P. 11 this case to be
8 within the exemption(s) marked above and am aware of the
9 sanctions which may be imposed against any attorney or party who
10 without good cause or justification attempts to remove a case
11 from the arbitration program.

12 Dated this 3rd day of March, 2022.

13 CAP & KUDLER

14 

15 DONALD C. KUDLER, ESQ.
16 Nevada Bar No.: 005041
17 3202 W. Charleston Blvd.
18 Las Vegas, NV 89102
19 Attorney for Plaintiff
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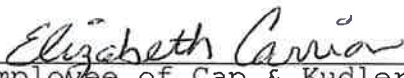
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2022,
pursuant to Administrative Order 14-2, I electronically served a
true and correct copy of the foregoing **REQUEST FOR EXEMPTION FROM**
ARBITRATION, as follows:

Lew Brandon, Jr., Esq.
l.brandon@bsnv.law
Jeffrey J. Orr, Esq.
j.orr@bsnv.law
Homer Gonzalez, Esq.
h.gonzalez@bsnv.law
Brandon Smerber law Firm
Tel NO. (702) 380-0007
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Attorneys for Defendant


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